

MINUTES

**MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON EDUCATION AND CULTURAL RESOURCES

Call to Order: By **CHAIRMAN BILL GLASER**, on January 15, 2003 at 3:00 P.M., in Room 317-C Capitol.

ROLL CALL

Members Present:

Sen. Bill Glaser, Chairman (R)
Sen. Bob Story Jr., Vice Chairman (R)
Sen. Jerry W. Black (R)
Sen. Edward Butcher (R)
Sen. Mike Cooney (D)
Sen. Jim Elliott (D)
Sen. Royal Johnson (R)
Sen. Jeff Mangan (D)
Sen. Don Ryan (D)
Sen. Tom Zook (R)

Members Excused: None.

Members Absent: None.

Staff Present: Tari Elam, Committee Secretary
Connie Erickson, Legislative Branch

Please Note:

Audio-only Committees: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 16, 1/15/2003; SB 52, 1/15/2003
Executive Action:

HEARING ON SB 52

Sponsor: SENATOR DAN HARRINGTON

Proponents: Representative Carol Juneau, HD 85
Jerry Driscoll, AFL-CIO, Montana
Eric Feaver, MEA-MFT
Gene Fendersen, Progressive Labor Caucus
Don Judge, Representative, Teamsters Union
Local #190, *in absentia*
Bob Jarvis, Trustee, Browning Public School
District #9
Robert Mad Plume, Trustee, Browning Public
School District #9
Mary Lee Crowe, Classified Employee, Browning
Public School District #9
Sheila Grant, Classified Employee, Browning
Public School District #9
Clarice Hall, Employee, Browning Public
School District #9
Virgil Mad Plume, Registered Voter, Glacier
County, Montana
David Knopfle, Classified Employee, Browning
Public School District #9

Opponents: Shawn Bubb, Director of Insurance Services,
Montana School Boards Association (MTSBA)
Lance Melton, Montana School Boards
Association (MTSBA)
Lynda Brannon, Montana Association of School
Business Officials (MASBO)

Opening Statement by Sponsor:

{Tape: 1; Side: A; Approx. Time Counter: 1 - 11}

SENATOR DAN HARRINGTON, SD 19, Silver Bow, brought forward a bill requiring the payment of unemployment benefits to noncertified school employees under certain defined conditions. **SEN.**

HARRINGTON outlined the history of the bill, including his own involvement since 1979. He explained the original legislation which addressed this issue was rescinded in 1985 subsequent to changes in the rules as defined by the Federal Unemployment

Regulation Commission. Although various legislators thought the changes were discriminatory in application, they believed the effects would be short-lived because the changes were not laws. In 1991 the Commission rescinded the rule passed in 1985; however, Montana's legislature has yet to change direction on the matter. As a point of explanation, on the topic of discriminatory application, **SEN. HARRINGTON** described the difference between a bus driver in Butte versus someone in the same position in Billings. In Butte, a bus driver is a public employee who cannot collect unemployment, the driver in Billings works for a private contractor and is therefore eligible. **SEN. HARRINGTON** stated this is a clear case of discrimination against public classified employees. **SEN. HARRINGTON** also stated he is in complete disagreement with the fiscal note despite his signature appearing on the document.

Proponents' Testimony:

{Tape: 1; Side: A; Approx. Time Counter: 11 - 30}

{Tape: 1; Side: B; Approx. Time Counter: 1.1 - 13.2}

Carol Juneau, Representative, HD 85, testified in support of the bill, noting with particularity the substantial unemployment rates on Montana's reservations. **Rep. Juneau** provided the Committee with information she compiled which indicates unemployment rates on reservations are between 42 and 70 percent **EXHIBIT (eds08a01)**. **Rep. Juneau** reminded the Committee the average classified employee is a member not only of their community, but of the relevant districts: they live in the district and spend their earnings in the district. She also noted many of the effected employees are the working poor, and, many, the sole support for their families.

Jerry Driscoll, Montana State AFL-CIO, stated this is simply another public versus private sector argument. As pointed out by **SEN. HARRINGTON**, public school employees who work in areas where schools have contracted out for these services are eligible for unemployment, while those in the public sector are not. **Mr. Driscoll** also made reference to the argument commonly made in opposition to this proposal--i.e., these people knew the jobs were seasonal--noting construction workers and loggers are also seasonal and yet eligible for unemployment. He also reminded the Committee in order to be eligible for unemployment a person must be willing and able to work, therefore, this legislation does not provide a free-ride for people who do not want to work.

Eric Feaver, MEA-MFT, indicated his appreciation for **SEN. HARRINGTON's** dedication to this bill. His organization is in support of this legislation.

Gene Fendersen, Montana Progressive Labor Caucus, is dismayed by the fact that our society does this to its weakest members. **Mr. Fendersen** conveyed his own memories of a public school janitor. **Mr. Fendersen** encouraged the Committee to recommend Do Pass on the legislation. **Mr. Fendersen** also submitted testimony from **Don Judge**.

Don Judge, Representative, Teamsters Union Local No. 190, in absentia, submitted written testimony **EXHIBIT(eds08a02)**.

Bob Jarvis, Trustee, Browning Public School District #9, began his testimony indicating his own thoughts echo the speakers who rose in favor before him. **Mr. Jarvis** went further, however, conveying his own experience with regard to this matter. These jobs, he said, are some of the lowest paid jobs in his area. With regard to unemployment: he has seen it reach 75%. **Mr. Jarvis** would also like the Committee to consider that many of those effected are too old to fight fires in the summer, or are single-mothers, or just unlucky enough not to find a summer job. **Mr. Jarvis** also outlined some of the less obvious effects of being unemployed in the summer.

Robert Mad Plume, Trustee, Browning Public School District #9, discussed the realities of seeking summer work as a firefighter. He also discussed the effects of unemployment on present day children trying to attend school. **Mr. Mad Plume** indicated despite having been raised under the conditions they seek to eradicate with this proposal, his life is very blessed and his own children doing well in school. Additionally, having served as a teaching assistant in the district **Mr. Mad Plume** feels he understands the issue from that perspective as well. **Mr. Mad Plume** also explained the nature of his own efforts toward reducing unemployment, stating he employees numerous individuals in the construction industry throughout the summer months.

Mary Lee Crowe, Classified Employee, Browning Public School District #9, submitted written testimony **EXHIBIT(eds08a03)**. **Ms. Crowe** also expressed her concerns over past decisions that eliminated coverage, and over the fact that unemployment insurance is deducted from her check each pay period but she cannot draw against those funds.

Sheila Grant, President, Classified Union Employees, Browning Public School District #9, submitted written testimony in support of **SB 52 EXHIBIT(eds08a04)**. **Ms. Grant** also provided the Committee with numerous letters in support of the legislation written by various members of her community **EXHIBIT(eds08a05)**.

Clarice Hall, Classified Employee, Browning Public School District #9, testified she too has experienced the effects of unemployment. **Ms. Hall** indicated she has had to resort to living on welfare and food stamps in the summer months, and is unable to seek employment in the area most readily available during that time: fire fighting.

Virgil Mad Plume, Registered Voter, Glacier County, asked the Committee to support this legislation. **Mr. Mad Plume** also discussed the realities of being a firefighter during the summer months, indicating he is 19 years old and in good health, and yet it was difficult for him. **Mr. Mad Plume** does not think many of the elderly or other community members would be able to do the job.

David Knopfle, Classified Employee, Browning Public School District #9, expressed his appreciation to **SEN. HARRINGTON**. **Mr. Knopfle** explained often times many Montana communities must rely on teachers from outside the community to fill-in. The classified employees fill an important role in these instances because the children are familiar with them; they make the classroom comfortable for the children. **Mr. Knopfle** believes this is one of the most important factors to be considered.

Opponents' Testimony:

{Tape: 1; Side: B; Approx. Time Counter: 13.4 - 30}

{Tape: 2; Side: A; Approx. Time Counter: 0.2 - 1.0}

Shawn Bubb, Director of Insurance Services, Montana School Boards Association, testified he is in opposition to this legislation, noting the national unemployment rate is 6.9% and Montana's 4.4%. **Mr. Bubb** stated his organization represents a self-insured group which covers 85% of the covered public school system employees, grades K - 12. He explained when an employee files for unemployment benefits the program allows for 26 weeks of payments; which employer is charged for those benefits is based on a standard formula. **Mr. Bubb** referred to Pages Three and Four of the fiscal note, requesting the Committee please note the substantial impact to the entire education system. **Mr. Bubb** believes this is one of the most thorough and accurate fiscal notes he has ever read. He believes the impact will create a threat to a system which is currently working very well. He also stated his organization fights for classified and professional employees and believes this legislation will result in higher unemployment. Although he thinks the intent of the bill is good, its affects are bad for the economy, bad for education, and bad for Montana.

Lance Melton, Montana School Boards Association, indicated his opposition to this bill comes with great difficulty. He referred the Committee to Section 1, Sub-section 2, of the bill noting this new addition is a significant change to previous versions of the bill. The addition requires the payment of unemployment benefits in the event of emergencies, including strikes. That is, benefits would have to be paid if employees voluntarily did not work. **Mr. Melton** also argued that, under current law, this bill should not have been introduced because it fails to either identify a funding mechanism or contain the stipulation that it is exempted from that requirement.

Lynda Brannon, Montana Association of School Business Officials, testified her organization's opposition to this bill arises from the knowledge that once again the local taxpayers of Montana will have to pay more money. Since the bill requires a permissive levy at the county level, it will be attached to local property taxes. **Ms. Brannon** argued many Montanans are already having difficulty meeting their tax obligations. She requested the bill be tabled at this time.

Questions from Committee Members and Responses:

{Tape: 2; Side: A; Approx. Time Counter: 1.1 - 10.5}

SENATOR DON RYAN reiterated **Mr. Bubb's** testimony regarding the reduction of school services if this bill passes, together with **Mr. Melton's** testimony that unemployment insurance is paid from a retirement fund (a permissive levy), asking **Mr. Bubb** what services will be lost if this legislation were to be passed. **Mr. Bubb** responded by explaining how schools are funded through two sources: the general fund and permissive levies. He continued, saying many schools may be forced to resort to the use of general fund dollars in order to pay for the costs of unemployment if local taxpayers cannot pay the additional costs. If general fund dollars are being used to cover the shortfall, cuts in other areas will need to be realized.

SEN. RYAN then inquired of **Mr. Bubb** when premiums are paid by the district to his organization. **Mr. Bubb's** initially responded that he could not speak for government programs, however, he will answer with regard to his own program. **Mr. Bubb** continued saying districts pay every quarter based upon actual payroll. **SEN. RYAN** then inquired about the balance of the reserve fund at the present time. **Mr. Bubb** responded it is 2.3 million dollars (\$2,300,000). He also stated he would recommend Montana School Boards Association liquidate the program if this legislation were to pass.

SEN. RYAN asked **Mr. Bubb** for the dollar amount collected by his organization each quarter. **Mr. Bubb** responded with an annual figure of \$939,000 in premiums, and with unemployment insurance expense liability in the amount of approximately \$520,000.

SENATOR JIM ELLIOTT expressed his thoughts about the distinction between the issue of finance and the issue of principle, asking **Mr. Melton** if "on principle" he or his organization would support giving this benefit to classified personnel. **Mr. Melton** responded by saying all persons should be paid well, however, as a matter of principle he does not believe people should be paid for not working. He does not see how guaranteeing people three months of benefits, without those benefits having a source of funding, is a solution to the problem. **SEN. ELLIOTT** continued, stating the practice of paying unemployment is quite common in various industries asking if **Mr. Melton** would be in favor of eliminating unemployment. **Mr. Melton** replied in the negative, stating there is a vast difference between employment subject to inclement weather and those in which the law stipulates length of employment.

SENATOR BOB STORY asked how many people are covered under the plan administered by **MTSBA**. **Mr. Bubb** responded 25,000 persons are covered by his plan. **SEN. STORY** then inquired as to how many were presently drawing unemployment. **Mr. Bubb** indicated he did not have that particular information at this time. **SEN. STORY** requested **Mr. Bubb** provide the information to the Committee. (**Mr. Bubb** provided the information to the Committee on 16 January 2003, in the form of **LATE EXHIBIT** (eds08a06).)

Closing by Sponsor:

{Tape: 2; Side: A; Approx. Time Counter: 10.6 - 17.4}

SEN. HARRINGTON addressed the testimony of opponents, conveying his concerns over comments which suggest unemployment compensation may not be an appropriate solution. He discussed the realities of collecting unemployment, the difference in economic positions, and the disparities inherent in the present system. **SEN. HARRINGTON** stated he takes issue with the common practice of relying upon these particular employees when it is desirable and the apparent willingness to disregard them otherwise.

HEARING ON SB 16

Sponsor: SENATOR JEFF MANGAN

Proponents: Lance Melton, Montana School Boards
Association (MSBA)
Dave Puyear, Director, Montana Rural
Education Association (MREA)
Bill Sutton, School Board Trustee, Elementary
District #29, Somers, and District #5,
Flathead High School
Rachel Vielleux, Missoula County
Superintendent of Public Schools
Emil Neumann, Self
Jack Gunderson, Self
James Neumann, Self

Opponents: None

Informational Witnesses: None

Opening Statement by Sponsor:

{Tape: 2; Side: A; Approx. Time Counter: 18.0 - 32.0}

{Tape: 2; Side: B; Approx. Time Counter: 1.2 - 1.7}

SENATOR JEFF MANGAN, SD 23, GREAT FALLS AND BLACK EAGLE, stated this bill comes out of the Educational Government Interim Committee. The purpose of the legislation is to allow for the transfer of territory between school districts upon meeting certain criteria. **SEN. MANGAN** discussed the history of the bill, noting how extensive a process was undertaken to address the issues raised by a December 2000 decision from the Supreme Court of Montana. In that decision, the Court held Sections 20-6-213(5) and 20-6-320(5) of the Montana Code Annotated were unconstitutional as they impermissibly granted legislative authority to a county superintendent of schools. Under the holding in the case, **SEN. MANGAN** explained how statutes must now be constructed so as to avoid this problem in the future: any conveyance of authority transferred to a legislative agency must provide clear and objective criteria by which a decision can be rendered. In order to meet this very specific requirement, **SEN. MANGAN, CHAIRMAN GLASER**, former **SENATOR ALVIN ELLIS**, together with legislative staff members, held meetings throughout the state seeking input from interested parties. These meetings provided the Interim Committee with a great deal of insight on how issues are managed at the local level. The meetings also demonstrated how very difficult creating a universally applicable law can become when trying to balance divergent interests. **SEN.**

MANGAN believes this legislation is indicative of the legislature's thoughtful analysis as applied to coordination and balancing of those various interests.

Proponents' Testimony:

{Tape: 2; Side: B; Approx. Time Counter: 2 - 21.5}

Lance Melton, MTSB, provided the Committee with a proposed amendment, drafted and approved by his organization in conjunction with the Montana Rural Education Association. See, **EXHIBIT (eds08a07)**. **Mr. Melton** expressed his appreciation for the extensive efforts put forth by the Interim Committee, noting his awareness of the contentious nature of the issues involved. His concerns about the bill arise from the perceived "back-door" way of achieving full annexation or consolidation without consideration of the voters will. **Mr. Melton** believes the proposed amendment submitted by his organization addresses those concerns. **Mr. Melton** reiterated his support of the bill, but would appreciate the Committee's consideration of the amendment.

Dave Puyear, Montana Rural Education Association, expressed his appreciation for all who have worked on this project over the past two years. He noted, with particularity, that this bill is as close as the various groups have been able to come toward fully addressing distinct interests. **Mr. Puyear** would appreciate the Committee's consideration of the amendment submitted by **Mr. Melton** and assured the Committee of his organization's support of the bill.

Bill Sutton, School Board Trustee, Elementary District #29 and High School District #5, conveyed his support for the bill. **Mr. Sutton** utilized an over-sized map of his district--as well, as those immediately contiguous--to demonstrate how this bill will assist districts in meeting changing demographic needs. **Mr. Sutton** explained how some of the schools in his district are experiencing severe physical plant crises. He continued, explaining how the transfer of some students from one district to another can be beneficial in the long-term; i.e., the ability to have strong science and math programs across the district. **Mr. Sutton** believes through careful analysis of the numbers of students, together with the value of those students (percentage of tax base), problems of overcrowding and under-funding can be reduced or eliminated.

Rachel Vielleux, Superintendent of County Schools, Missoula, conveyed her support of the bill prior to proposed Amendment (see, EXHIBIT 7). **Ms. Vielleux** agreed consideration of the tax

base, and the burden of transfer on both territories' parties, are important elements in the overall analysis, however, she believes a set percentage is not appropriate in all instances. **Ms. Vielleux** would prefer the bill allow for discretion on the part of the superintendent for these two criteria.

Emil Neumann, self, conveyed his support for this legislation. **Mr. Neumann** informed the Committee that he attended every meeting of the legislature on this topic, as well as sub-committee meetings in Great Falls. **Mr. Neumann** explained his own interest in this matter arises from knowledge gained while attempting to transfer certain properties from Cascade County to Teton County. **Mr. Neumann** believes the most important concern here is that there be a process in place.

Jack Gunderson, Former Representative, Montana, self, indicated his support for the legislation, noting the issue has a long history. He personally worked toward this goal for many years and is familiar with the difficulties experienced by **Mr. Neumann**. **Mr. Gunderson** believes tax dollars should follow the children of those paying taxes. **Mr. Gunderson** thinks the bill is much more concise than previous versions and urged its passage.

James Neumann, Resident Neumann Bench, self, indicated he is the father of three children; two of whom attend Powers Elementary School. **Mr. Neumann** expressed his sincere appreciation for present and past legislative members who have worked on this legislation. **Mr. Neumann** explained how in his own case, a proposed transfer of 22% of the district to Powers School District was originally granted by a three member panel. While this percentage may have been problematic in some areas, in his district due consideration was given to all the necessary factors by a group of local citizens. **Mr. Neumann** agrees with **Ms. Vielleux's** assertions regarding local discretion being retained in order to ensure the most knowledgeable decision. **Mr. Neumann** then urged the Committee to pass the legislation in its present form.

Questions from Committee Members and Responses:

{Tape: 2; Side: B; Approx. Time Counter: 21.6 - 31.7}

{Tape: 3; Side: A; Approx. Time Counter: 0.2 - .7}

SEN. STORY inquired of **Mr. Melton** whether it has always been the case that in order to transfer territory there must be taxable value and students living within the territory. **Mr. Melton** responded by indicating the provision requiring at least some

children must reside within the territory to be transferred is new.

SEN. STORY then asked **Mr. Melton** to explain which is more important to the transferring district, the amount of value leaving or the number of students leaving, as defined in his proposed amendment. **Mr. Melton** explained the two are distinct issues. Often, once territory transfer becomes a concern the children have already left the territory.

CHAIRMAN BILL GLASER asked **Mr. Melton** how his proposed amendment affects the present legislation. **Mr. Melton** replied indicating the proposed amendment does not have a specified percentage loss over which annexation could not occur. However, **Mr. Melton** believes there are certain minimums which should exist if merely as safeguards to prevent full annexation. **Mr. Melton** used the example of a district having recently passed a building levy being subjected to a fifty percent loss in valuation by annexation leaving the remain residents to meet the obligations associated with the indebtedness.

CHAIRMAN GLASER explained the bill contains a clause which stipulates bonded indebtedness follows the territory. **Mr. Melton** stated he had not seen that part of the bill, however, his concern extends to all discretionary decisions which may have been made by a district. **Mr. Melton** suggested the Committee consider amending the bill to incorporate that "any permissive levy" follows the territory.

SEN. STORY suggested the proposed Amendment allows the first territory to transfer wide latitude, while placing restraints on subsequent territories requiring previous transfers to be considered in the decision. He asked **Mr. Melton** whether his interpretation was correct. **Mr. Melton** explained that, regardless of the number in the sequence, the cumulative effect of the transfer(s) needs to be accounted for and if equal to a certain percentage (for example, 50%), then the transfer must be subject to a vote.

SENATOR EDWARD BUTCHER inquired whether **Mr. Melton's** concerns would be addressed by a provision in the bill requiring any voted financial obligation be satisfied by the transferring district. **Mr. Melton** responded such a provision may be able to cure some of the problems he sees with the bill in its present form. **SEN. BUTCHER** asked **Mr. Melton** if he would be comfortable should the Committee go in that direction. **Mr. Melton** replied in the affirmative.

CHAIRMAN GLASER inquired whether **Mr. Emil Neumann** had anything additional he would like to add to today's discussion. **Mr. Neumann** responded by briefly outlining his own experience with the Neumann Bench transfer, and emphasizing that any "set" percentage would make the entire process much more difficult.

Closing by Sponsor:

{Tape: 3; Side: A; Approx. Time Counter: .8 - 5}

SEN. MANGAN expressed his appreciation to the Committee and to each of the individuals who provided testimony. He took note of the amendment proposed by **MTSBA** and **MREA**, stating he will take into consideration the concerns outlined but will have to respond more fully at a later time. **SEN. MANGAN** trusts this legislation is respectful of the potential parties who might be effected as it arises from a perspective which kept the needs of children at its' center.

CHAIRMAN GLASER indicated he and **SEN. MANGAN** will review the proposed amendment over the next few days and will come to a decision after those discussions.

ADJOURNMENT

Adjournment: 5:30 P.M.

SEN. BILL GLASER, Chairman

TARI ELAM, Secretary

BG/TE

EXHIBIT (eds08aad)